



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

RECEIVED
Town of Brookline
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 080018

Petitioner, Carl Katzeff, applied to the Building Department for a permit to remove an existing garage/sunroom wing; to construct a new garage with a gable-roofed addition with a porch and roof terrace over the garage as well as an addition to the rear corner of the dwelling per plans at 110 Arlington Street. The application was denied and an appeal taken to this Board.

On 22 May 2008 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed July 17, 2008 at 7:00 p.m., 2nd floor, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published 26 June and 3 July 2008 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **CARL KATZEFF**

Location of Premises: **110 ARLINGTON RD BRKL**

Date of Hearing: **07/17/2008**

Time of Hearing: **07:00 p.m.**

Place of Hearing: **Main Library, 2nd fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) **5.43: Exceptions to Yard and Setback Regulations; Special Permit Required.**
- 2) **5.60; Side Yard Requirements; Variance Required.**
- 3) **8.02.2; Alteration or Extension; Special Permit Required**

of the Zoning By-Law to construct a sunroom addition per plans at **110 ARLINGTON RD BRKL.**

Said Premise located in a **S-10** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the **ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.***

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Present at the hearing was Chair, Enid Starr and Board Members Rob De Vries and Mark Allen. The owners were represented by their architect, Andrew Reck, of Oak Hill Architects, 472 Boston Post Road, Weston, MA 02493.

Mr. Reck described the dwelling at 110 Arlington Road as a single-family dwelling with an attached two-car garage on the basement level. He said that the lot slopes up rapidly from the front

lot line towards the rear, and the rear yard is heavily wooded. Surrounding properties include other similar single-family dwellings, and the Town's transfer station is located to the rear.

Mr. Reck said that the applicants, Carl Katzeff and Susan Kestler, wish to demolish the existing garage, an addition above the garage, and a portion of the house at the rear, and construct a new larger garage in substantially the same location, as well as a new addition at the rear of the house. The new garage would be attached to the dwelling at the basement level, similar to the existing garage. Above the garage, a gable-roofed addition with a porch and roof terrace would be built. The new garage would be 33 feet 6 inches deep by 23 feet 4 inches wide. The new addition above the garage, approximately 19 feet wide by 25 feet 9 inches deep, would be pulled in from the edges of the garage to create a terrace on the front and a porch on the rear. A dormer on the addition's roof at the rear would allow for a second-floor bathroom. The garage would be finished with stone veneer, while the addition would be finished with wood clapboard siding. A portion of the garage, 61.6 square feet, should be counted towards the property FAR, but the overall should still comply with maximum floor area requirements after the completion of this proposal. At the rear of the dwelling, a small single-story addition would be removed and replaced with a larger single-story addition that lines up with the house's northern edge. The addition would be 22 feet 10.5 inches by 8 feet 4 inches, and allow for an expanded kitchen area. The exterior would be finished with wood siding. Mr. Reck said that his clients needed relief from the side setback requirements and he thought that it could be granted by a special permit under §5.43 of the bylaw. Because the home was pre-existing, non-conforming he said he also needed relief that could be provided by §8.02.2, alteration or extension.

Lara Curtis, Planner provided the findings of the Planning Department.

Section 5.60 – Side Yard Requirements

	Required	Existing	Proposed	Finding
Side Yard Setback (south)	10 feet	10.6 feet	8.7 feet	Special Permit*
Side Yard Setback (north)	10 feet	9.4 feet	9.2 feet	Special Permit*

* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter or extend a non-conforming structure.

Ms. Curtis said that the Planning Board was not opposed to the proposal for a new garage wing and rear addition for this single-family dwelling. The proposed alterations are a reasonable size and attractively designed. The proposal is not expected to cause a detrimental impact on abutting properties, especially if they are screened from neighboring properties. The site's existing landscaping, especially if bolstered with additional plantings, could adequately screen the new additions. Therefore, she said, the Planning Board recommended approval of the proposal and the submitted plans, entitled "Katzeff/Kestler Residence, Chestnut Hill, MA," prepared by Oak Hill Architects and last dated 5/7/08, and the submitted site plan, prepared by Bruce Bradford and last dated April 17, 2008, subject to the following conditions:

1. Prior to issuance of a building permit, final elevations of the garage and additions shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairperson then asked if there were any members of the public who wish to speak in support or opposition to the Petitioner's proposal; no one responded.

The Chairperson then called upon Michael Shepard, Building Commissioned. Mr. Shepard spoke on behalf of the Building Department. Mr. Shepard reported that the property is well maintained and the lot is significantly sized by Brookline standards. He said that the property is well maintained and fairly steeply sloped up to the rear. He stated that all the relief required for this proposal could be granted by special permit. Mr. Shepard said that the Board may grant a special permit under Section 5.43 to waive setback requirements if counterbalancing amenities are provided. Because the structure is pre-existing, non-conforming, a special permit is required under Section 8.02.2 to alter a non-conforming condition. Mr. Shepard said that the Building Department had no problem with the proposal, the relief required or the conditions recommended by the Planning Board.

The Chair asked the Board Members whether they had any questions or comments relative to the proposal. Mr. Allen asked specifically about the proposed counter-balancing amenities and Mr. Reck responded that significant landscaping would be done on the southern side of the property as well as reconstruction of the retaining wall to accommodate the new garage. Mr. Allen said he thought the proposal was sound and well prepared. Mr. De Vries asked about the drainage on the site. The architect responded that there is currently a drainage problem due to the steep slope. He said that due to extensive excavation required for the addition, they were going to utilize best engineering practices to ameliorate the drainage situation. Mr. De Vries agreed that the proposal was a good one. The Chair opined that the relief requested was de minimus.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits under Sections 5.43 and 8.02.2 of the Zoning Bylaw. The Board makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.

- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the board voted unanimously to grant all the Special Permit relief with the following conditions:

1. Prior to issuance of a building permit, final elevations of the garage and additions shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
the Board of Appeals



Enid Starr

Filing Date: 7/24/08

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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